



# Sites Project Authority

**Request for Proposals  
Independent  
Annual Financial Auditing Services  
No. RFP 25-02**

**April 1, 2025**

**Submittal Deadline**

April 25, 2025  
2:00pm Pacific Standard Time (PST)

**Form of Submittal**

Electronic Submittal Only  
soconnell@sitesproject.org

**Contact Person**

Shayleen O'Connell, CPA/ABV/CFE  
Finance Manager  
Sites Reservoir Project  
soconnell@sitesproject.org

# **Request For Proposals Independent Annual Financial Auditing Services**

## **1.0 GENERAL**

The Sites Project Authority (Sites Authority) is currently seeking proposals from highly experienced and qualified independent financial audit firms (each a respondent) with certified public accountants to audit the financial statements of the Sites Authority.

## **2.0 DESCRIPTION OF THE SITES PROJECT AUTHORITY**

### **Project Governing Structure and Support Services**

The Sites Authority is a joint exercise of powers authority formed on August 26, 2010, pursuant to California Government Code Section 6500 *et seq.* The Sites Authority is governed by a 9-voting member Board of Directors, including several local water agencies and Colusa and Glenn counties. The Sites Authority receives advisory support from 22 local water agencies located statewide (the Reservoir Committee) who have entered into Project agreements to help fund and advance the Sites Reservoir Project (Project). The following link provides current Sites Authority Board and Reservoir Committee members:

<https://sitesproject.org/sites-project-authority/>

The Sites Authority adopted its 2020 Strategic Plan, which guides the project team's implementation of the Project. The Strategic Plan includes the vision, mission and values that the Authority seeks to uphold, and expects all project team members to endorse and adhere to in their daily work on the Project. The Authority's Strategic Plan that includes its vision, mission and values can be found at the Sites Authority website: <https://sitesproject.org/wp-content/uploads/2019/11/02-02-Final-Strategic-Plan.pdf>

The contract will be between the independent auditing firm and the Sites Authority. The Sites Authority does not currently have employees and contracts for all services related to the development of the Project. The Sites Authority's Executive Director (an independent contractor) reports to the Authority Board and is responsible for developing the Project.

### **The Project**

The Sites Reservoir will be located 10 miles west of the town of Maxwell in rural Glenn and Colusa counties. The Project includes a 1.5 million acre-foot off-stream surface water storage

facility that will be filled with diverted stormwater flows from the Sacramento River, after all other water rights and regulatory requirements are met, for subsequent release for environmental use and use by California communities, farms and businesses. When completed, it will be the state's 8<sup>th</sup> largest reservoir and 2<sup>nd</sup> largest off-stream reservoir and would increase surface water storage in the Sacramento Valley by about 15%. The Project makes use of existing canals to divert water into and out of the reservoir, and will construct additional pipelines, pumping stations and appurtenant facilities. For additional Project location and other Project information please visit the Project website [www.sitesproject.org](http://www.sitesproject.org).

The Project expects to achieve an “investor commitment” milestone signifying the transition from Phase 2 (Planning) to Phases 3/4/5 (Final Design, Construction, Operations) within the next 12-18 months, following receipt of a water right permit from the State Water Resources Control Board. The Project is funded through cash contributions from the 22 public agencies, dues from the 11 Authority Board members, and cost reimbursements from State and Federal funding agreements. Upon transition to Phases 3/4/5, the project funding is expected to be financed with debt and federal and state contributions. Debt may be in the form of publicly issued tax-exempt debt and loan agreements with banks and the federal government. The Sites Authority has not yet issued debt nor executed any loan agreements. The 2023 and past Audited Financial Statements and Federal Single Audits are available here: <https://sitesproject.org/financial/>.

The Project is a large capital project that over the past few years has gained momentum and is on a “fast-track” to be operationally complete by the end of 2032. In late 2023, the Project was determined by the California Governor and Legislature to be a critical piece of new water infrastructure, which qualified certain project activities for special judicial streamlining and expedited permitting. Given these and other factors, the work environment is fast-paced and dynamic.

### **3.0 REQUESTED FINANCIAL AUDIT SERVICES**

The Sites Authority is currently requesting the services of an experienced firm to be responsible for all phases of the annual audit of the Sites Authority's financial statements including the disclosures and required supplementary information in accordance with auditing standards generally accepted in the United States of America (GAAS), to issue an opinion on the fair presentation of its financial statements in conformity with generally accepted accounting principles, and to report the findings to the Sites Authority's Board of Directors and submit the reporting package along with the Data Collection Form to the federal audit clearinghouse. In addition, the selected firm will be required to complete a Federal Single Audit and file the California State Controllers Annual Report of Financial Transactions.

Additional financial auditing and consulting services may be requested in addition to annual financial audit services during the contract performance period.

The Authority currently uses QuickBooks Pro for its financial accounting and recognizes revenue and expenses on an accrual basis. The auditor will apply Generally Accepted Accounting Principles (GAAP) applicable to public agencies with business line types of activities and conduct the audit in accordance with Generally Accepted Auditing Standards (GAAS) set forth by the American Institute of Certified Public Accountants (AICPA) in the Statement of Auditing Standards. Additionally, the audit will be conducted in accordance with auditing standards as required by Government Auditing Standards issued by the Comptroller General of the United States and the State Controller's Minimum Audit Requirements for California Special Districts.

The requested initial financial and Federal single audits are for the Sites Authority's fiscal years (FY) 2025, 2026, and 2027. The Sites Authority's fiscal year is January 1<sup>st</sup> to December 31<sup>st</sup>. Estimated expenditures for the Sites Project for these fiscal years are approximately \$40 million for 2025, \$40 million for 2026, and \$150 million for 2027. Following the completion of an audit of each of the fiscal year's financial statements, the auditor is to submit a report on the financial statements and the auditor's opinion as to whether the statements are in conformity with generally accepted accounting principles to the Sites Authority Board of Directors for their consideration.

Project spending and reporting is expected to significantly increase as construction activities ramp up in FY 2028 and beyond. As such, the Sites Authority will evaluate its needs and may amend this contract to include audits for FY 2028 and FY 2029 or issue a new solicitation for audit services.

A representative from the selected firm will present the results of the audited financial statements to the Authority Board of Directors at a regularly scheduled meeting, which dates are to be determined, but generally within nine months of the end of the fiscal year.

The auditing firm will retain all working papers at the firm's expense for seven years, or longer, if required by general accepted auditing standards.

The Sites Authority values consistency, effectiveness and efficiency. It is requested that the same audit team be assigned to the audit from the beginning to end of the annual audit and be used for subsequent annual audits, where possible.

#### 4.0 CONTRACT TERMS

The Sites Authority intends to issue the contract as a firm fixed price fee for each of the fiscal year audits.

As discussed in Section 3.0, the Sites Authority may request additional financial auditing, analysis and consulting services during the contract period of performance. A task for as-requested services at the Sites Authority's discretion, and as requested in writing, will be added to the Agreement. Such work may be performed on a time and materials basis using approved billing rates, and up to a not-to-exceed Budget as agreed to with the Sites Authority.

The term of the contract will be from the execution date of the contract through December 31, 2028. The decision to amend the contract for future audits will be at the discretion of the Sites Authority's Board of Directors.

#### 5.0 GENERAL PROPOSAL REQUIREMENTS

Once the request for proposals (RFP) has been publicly released, any communications related to the preparation of a proposal by a prospective Respondent with any of the Authority Board's members; Reservoir Committee's members; Executive Director, Authority's Agents, advisors, or contracted Consultants other than the Contact Person, may result in any ensuing proposal that was submitted by the prospective Respondent being deemed unacceptable and the proposal will not be considered.

##### 5.1 Proposal Submittal

Receipt of the following material is **required by April 25, 2025, 2:00pm PST**, for a Respondent to be considered:

- An electronic copy of the proposal and all its appendices in a single bookmarked PDF file emailed to:  
Shayleen O'Connell, CPA/ABV/CFF  
Sites Project Authority Finance Manager  
[soconnell@sitesproject.org](mailto:soconnell@sitesproject.org)
- The proposal shall include the following:

Transmittal Letter listing RFP No. 25-02

Sections: Page sizes are limited to 8.5 inches by 11 inches and 11-point font minimum, not including transmittal letter, cover page, or table of contents, unless otherwise specified.

1. Work Plan/Scope of Services and Schedule
2. Project Team
3. Statement of Experience and Qualifications
4. Proposed Fees
5. Disclosure of Legal Actions, Conflicts of Interest, or other Potential Conflicts
6. Potential Comments to Authority's Standard Consulting Addendum A

Appendices:

- A. Key Staff Resumes

## **5.2 Other Required Information Specific Requirements:**

### Transmittal Letter

The transmittal letter must not exceed two pages and must be signed by a representative of the Respondent who is authorized to negotiate on behalf of, and to contractually bind, the Respondent during the evaluation. The letter should summarize the key points contained in the proposal, as well as provide the name, title, address, email address, and telephone number of the key contact person.

### 1. Work Plan/Scope of Services and Schedule

Provide a description of the approach and methods to be used to meet the Authority's objectives, and the sequence and schedule of activities. Include all assumptions and caveats. The schedule should include projected delivery dates based on receiving the Sites Authority's fiscal year financials by mid-March of each year.

### 2. Project Team

Provide a list of the lead auditor and key personnel directly assigned to the effort, along with a brief statement on their experience conducting financial and federal single audits, responsibilities and resumes. Resumes should not be longer than 2 pages and included in Appendix A of the proposal. The Sites Authority reserves the right to approve the Respondent's proposed lead auditor and any requested key personnel changes during the course of the contract.

### 3. Statement of Experience and Qualifications

Provide a brief statement on the company's experience and qualifications related to the requested financial and federal single audits services.

Provide a list of similar projects conducted in the last two years by the proposed Audit Partner and Audit Manager with a brief description of work performed (especially for California water agencies and joint powers authorities that also have an active capital improvement program and required Federal Single Audits) that qualifies your firm to provide the requested services. Provide the following information for at least three of the projects included in your list for possible references:

- Client name;
- Client;
- location;
- Description of the services provided for audits and federal single audits;
- Date of services;
- Contract amount; and
- Contact person with their position, telephone number, and email address.

4. Proposed Fees

Provide the costs to perform the identified auditing services for each fiscal year audit that includes staff and other direct costs. Include all assumptions included in the cost proposal.

Provide staff billing rates for potential additional financial and consulting services.

5. Disclosure of Legal Actions, Conflicts of Interest, or other Potential Conflicts.

Please provide any pending investigations of the Respondent, and any enforcement, settlements, or disciplinary actions taken within the past five years by any regulatory body and any litigation challenging the manner in which the Respondent has provided services in the past five years.

Disclose any actual **or potential** conflicts of interest between the Sites Authority, its Board members, Reservoir Committee members, Sites Project staff, and any other person or entity represented by your firm regarding this RFP.

6. Potential Comments to Sites Authority's Standard Consulting Addendum A

Exhibit A is the Sites Authority's proposed Consulting Addendum A. It is proposed that the selected firm's standard Agreement be used for this contract with the Sites Authority's Addendum A attached. The Sites Authority's Addendum A contains terms and conditions that are integral to the Agreement and will control in the event there is

a conflict between the Agreement and the Addendum A. Before submitting a proposal, respondents are instructed to carefully review and comment as necessary on any of the articles set forth in the Sites Authority's Addendum A. In Section 7, Respondents requesting to take exception to any provision in the proposed Addendum A, shall propose alternative language and/or terms and conditions they deem appropriate. The Sites Authority will give all such proposed changes due consideration but is under no obligation to accept or adopt them. The Sites Authority reserves the right to modify, add or delete any of the provisions of the Addendum A prior to issuance. For example, as federal and state funding agreements are executed, the Sites Project Authority Addendum A may be modified.

The Respondent shall identify the nature and extent of insurance policies that it has and will keep in place during the term of the contract, including, automobile, general liability, workers compensation and professional liability.

## **6.0 PROPOSAL SUBMITTAL PROCESS**

### **6.1 Written Questions and Requests for Clarification (Non-Mandatory)**

Prospective RFP Respondents may submit written questions to the RFP. All questions and requests for clarification or additional information on the RFP **must be made in writing by email, prior to April 9, 2025, noon PST**, and sent to the attention of the RFP Proposal Contact Person listed below. All question and clarification requests and responses will be provided as an RFP addendum to all potential respondents and all firms receiving this RFP, as well as being posted on the Sites Authority's website at: <https://www.sitesproject.org/>.

### **6.2 Written Proposals**

**Proposals are due on April 25, 2025, 2:00pm PST**, and are to be submitted electronically as a single bookmarked PDF via email to the Contact Person noted below. The Sites Authority's email has limitations on attachment size. Your emails must be less than 30 megabytes. If the Proposal exceeds the email limit, you will need to send multiple emails.

Proposals received after this time will not be accepted.

#### **RFP Proposal Contact Person**

Shayleen O'Connell, CPA/ABV/CFF  
Finance Manager



## 7.0 EVALUATION AND SELECTION PROCESS

An evaluation team comprised of Sites Authority Project representatives will evaluate each submitted proposal relative to the completeness of the submitted proposal and the criteria listed in Section 5.0. The information will be evaluated by a Sites Authority selection panel and the Respondents judged to be best qualified by the selection panel **may be** invited to participate in an interview and make a presentation to the interview panel. The Sites Authority reserves the right to make an award solely on the proposals received without conducting interviews.

If interviews are scheduled, the selection panel will identify the best qualified firm based on the evaluation of proposal and interview and negotiations of a contract will be initiated. If acceptable terms and conditions with the selected firm cannot be reached in a timely manner, the Respondent ranked second will be contacted to begin negotiations. However, the Sites Authority is not bound to accept the recommendation or award the contract to the recommended or second recommended Respondent. Upon completion of these negotiations, the selected firm will be recommended to the Reservoir Committee and Sites Authority Board for approval to execute the negotiated contract.

The Sites Authority reserves the right to select the Respondent which in its sole judgment best meets the needs of the Sites Authority and to reject all submitted proposals.

The Authority will evaluate proposal submittals and potential interviews based on the below four weighted percentage criteria.

- Relevant and applicable experience and qualifications of the Respondent and its proposed lead auditor and key staff in conducting financial audits and federal single audits. (50%) Note: Requirements associated with changes to key staff are defined in Exhibit A.
- Demonstrated past performance of the Respondent and its lead auditor in effectively working with client teams and delivering services on scope, quality, schedule, and budget to meet client needs. (20%)
- A demonstrated understanding of the Sites Project financials, auditing needs and alignment with the Authority's 2020 Strategic Plan. (20%)
- Ability to quickly respond after contract award to conduct the FY 2025 audit. (10%)

Consideration of proposed billing rates and fee table will occur separately from the qualifications evaluation and may be a consideration in determining the best qualified Respondent.

**8.0 Tentative Schedule**

**Proposals are due on April 25, 2025, at 2:00pm PST.** Proposals received after this time will not be accepted. In addition, after receipt of a Respondent’s proposals, no additional version of the Respondent’s proposal will be accepted.

**Contact Person**

Shayleen O’Connell  
 Finance Manager  
 soconnell@sitesproject.org

**Tentative Solicitation Schedule (subject to change)**

Activity	Date (2025)
RFP release and posting to Sites Authority website.	April 1, 2025
Respondents’ submission of written questions.	April 9, 2025 12:00 PM PST
Response to written questions emailed to Respondents and posted to Sites Authority website.	April 16, 2025
Proposals due to Sites Authority.	April 25, 2025 at 2:00 PMPST
Selected Respondent(s) interviews held, if conducted.	May 12, 2025 to May 15, 2025
Conclude negotiations of contract terms with highest rated Respondent.	June 5, 2025
Budget and Finance Committee	June 13, 2025
Sites Authority Board meeting to consider approval of contract.	June 20, 2025
Effective start date of the contract.	July 1, 2025

**9.0 Solicitation Disclaimer**

The Sites Authority reserves the right to reject any and/or all responses, negotiate with any Respondent that submits a response, or waive any informality or irregularity. All proposals become the property of the Sites Authority upon submission. The costs of preparing proposals and participating in discussions are at the sole expense of the Respondent.

There is no express or implied obligation for the Sites Authority to reimburse responding firms for any expenses incurred in preparing the proposal related to this RFP. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250), unless specifically exempt.

**10.0 Additional Information**

For more information on the Sites Authority, please visit <https://www.sitesproject.org/>.

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## **EXHIBIT A**

Sites Authority Addendum A





**Sites Project Authority**  
**Annual Financial Auditing Services Agreement - Addendum A**

This Addendum A (the “**Addendum**”) serves as an addendum to the agreement (the “**Agreement**”) entered into by and between the SITES PROJECT AUTHORITY and \_\_\_\_\_, a firm providing Annual Financial Auditing Services, effective on \_\_\_\_\_ (the “**Effective Date**”), and contains terms and conditions that are integral to the Agreement. In the event of a conflict between the terms and conditions of the Agreement and the terms and conditions of this Addendum, the latter shall control. SITES PROJECT AUTHORITY shall sometimes be referred to herein as “**Authority**”, and \_\_\_\_\_ shall sometimes be referred to herein as “**Consultant**”. Authority and Consultant may be individually referred to as a “**Party**” or collectively as the “**Parties**.”

RECITALS

- A. The Authority has as its mission, to be a proponent and facilitator to design and potentially acquire, construct, manage, govern, and operate Sites Reservoir and related facilities; to increase and develop water supplies; to improve the operation of the state’s water system; and to provide a net improvement in ecosystem and water quality conditions in the Sacramento River system and the Delta (“**Project**”);
- B. The Sites Reservoir has been identified by the State of California and federal government as an important component of integrated water management in the Sacramento River watershed and could support the state’s co-equal policy to improve water management and restore the ecological health for beneficial uses of the Sacramento-San Joaquin Delta and Sacramento River watershed; and
- C. Consultant desires to perform the Service subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the articles contained in this Agreement, the Authority and Consultant agree as follows:

**ARTICLE 1: SERVICES**

- a. **Services**. The services to be provided for pursuant to the Agreement include Annual **Financial Auditing** (“**Services**”). The “**Services**” shall mean all work to be performed by Consultant hereunder, as the same may be supplemented, expanded, reduced or otherwise modified from time to time pursuant to an Amendment described below. The Services shall be provided on a not-to-exceed basis. Statement of Standard Services which includes tasks, deliverables and assumptions is attached hereto as **Exhibit A** and incorporated herein.
- b. **Amendment**. From time to time, the Parties may make changes to or authorize certain work set forth in the Agreement, including, without limitation, issuing additional instructions, requiring additional work, deleting work previously ordered, or increasing or decreasing the budget or time for performance, by executing one or more Amendments (each a



“**Amendment**”). The provisions of this Agreement shall apply to all such Amendments. Authority shall be solely responsible for bearing the costs associated with preparing an Amendment.

c. **Project Management.**

- i. **Consultant’s Representative.** \_\_\_\_\_ (“**Consultant’s Representative**”) is hereby designated as the principal and representative of Consultant authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection herewith. Consultant shall not substitute Consultant’s Representative without first notifying Authority in writing of Consultant’s intent to do so.
- ii. **Authority’s Agent.** Shayleen O’Connell, Finance Manager (“**Authority’s Agent**”) is hereby designated to represent Authority and except as otherwise provided herein authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection therewith. Authority may substitute Authority’s Agent at any time upon written notice to Consultant.

**ARTICLE 2: TERM OF AGREEMENT**

- a. The Agreement shall remain in full force or effect until the conclusion of the term provided for therein, or until the earlier termination of the Agreement in the manner provided for in this Addendum (the “**Term**”).
- b. The Term of the Agreement may be extended upon terms mutually agreed upon by the Parties. In order to extend the Term, a Party must communicate its interest in an extension no less than sixty (60) days prior to the expiration of the initial Term or any extended Term.
- c. Either Party may terminate the Agreement at any time with or without cause, by giving sixty (60) days’ written notice to the other Party of the termination.
- d. The Authority may terminate the Agreement at any time prior to expiration of the Term without notice if the Consultant commits any material act of dishonesty, discloses confidential information, is guilty of gross carelessness or misconduct, or unjustifiably neglects their duties under the Agreement, commits any material breach of the terms of the Agreement or acts in any way that has a direct, substantial, and adverse effect on Authority’s reputation. If Authority terminates for cause due to Consultant’s material breach of the Agreement, Authority shall only be liable to compensate Consultant for Services provided up to the date of Consultant’s receipt of the Authority’s notice of termination. Termination of the Agreement by Authority shall not affect Consultant’s obligations or liabilities to Authority other than Consultant’s obligation to continue to render the Services, which shall terminate.
- e. **Suspension of Services.** Authority may order Consultant in writing to suspend, delay or interrupt performance of all or any part of the Services under the Agreement for the convenience of Authority, or for work stoppage beyond the control of Authority (“**Suspension Notice**”). If the performance of the Services is so suspended, delayed or interrupted, Authority





shall pay Consultant for Services rendered prior to receipt of the Suspension Notice, and for reasonable charges for documenting the status of such Services as of the date of suspension, but no further payment shall be due unless and until Authority gives written notice that performance of such Services shall be resumed.

### **ARTICLE 3: RESPONSIBILITIES OF THE PARTIES**

- a. **Conflict of Interest Code Compliance.** In providing Services the Consultant shall act consistent with any determination made by the Authority’s Executive Director or designated representative that the Agreement requires or permits Consultant to make a governmental decision as specified in 2 CCR 18700.3(a)(1), or serve in a staff capacity as specified in 2 CCR 18700.3(a)(2), and therefore confers on Consultant and select employees of Consultant the status of a “designated employee” or “Consultant” of the Authority for the purposes of Authority’s Conflict of Interest Code and the California Political Reform Act. Consultant acknowledges that if the Authority through its Executive Director determines that some of the Consultant’s key personnel are a “designated employee” or “Consultant”, Consultant shall **(i)** acknowledge and accept said determination, **(ii)** become familiar with the terms of the Political Reform Act, the Authority’s Conflict of Interest Code, and the obligations and limitations said laws impose upon Consultant, and **(iii)** not commence any Services provided for herein until Consultant and each of its designated employees has filed a Form 700 Statement of Economic Interest with the Authority. Authority reserves the right to reevaluate the determination under this **Article 3.a** from time to time, and Consultant acknowledges that said determination is subject to change if and as the Parties amend the Agreement and the nature of the Services. Consultant shall be solely responsible for bearing the costs associated with compliance with Authority’s Conflict of Interest Code and the California Political Reform Act.
- b. **Compliance with Laws.** Consultant’s services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant’s profession currently practicing under similar conditions. Consultant shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations, orders and Authority’s rules, regulations and policies relating to the Services (“**Applicable Laws**”). Consultant certifies that its work in furtherance of the Services conforms to the requirements of the Agreement and all Applicable Laws.
- c. **Safety.** Without limiting any term or condition of **Article 3.b**, Consultant warrants that all work done under the Agreement will be in compliance with all applicable safety rules, laws, statutes and practices, including, but not limited to, Cal/OSHA regulations. Consultant shall be solely and exclusively responsible for its compliance, and compliance by its agents, employees, and subcontractors, with all safety requirements. The Authority reserves the right to require Consultant to develop and submit to the Authority a fieldwork safety plan; provided, however, that Authority will not review such plan for quality, sufficiency, legal compliance or any other matters.
- d. **Books and Records.** During the term of the Agreement, Consultant shall keep and preserve accurate and detailed records of all work product, ledgers, books of account, invoices,

vouchers, cancelled checks, and other documents or records evidencing or relating to the Services and disbursements charged to Authority under the Agreement (collectively, “**Books and Records**”) in the manner required under the Authority’s Records Keeping Policy. Further, Consultant shall keep and shall preserve accurate and detailed records of all Books and Records for no less than seven (7) years after final payment for all Services under the Agreement. Any and all Books and Records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the Services provided by Consultant under the Agreement. During the retention period, Consultant shall give Authority and its agents, during normal business hours, access to such Books and Records. Authority and its agents shall have the right to make copies of any of the said Books and Records.

- e. Consultant shall not commission the services of any new key staff or personnel (as identified in the Statement of Qualifications (SOQ) or Proposal submitted in connection with the associated Request for Qualifications (RFQ) or Request for Proposal (RFP)) without the approval of the Authority, which approval the Authority may withhold or condition in its reasonable discretion to ensure adherence to the terms and conditions of the Agreement, and which approval shall, if granted, be memorialized in writing in the form of an email response. Consultant, and each of their employees performing the Services shall undergo the process provided for in the Authority’s New Consultant Staff Addition Procedure. Consultant shall determine the method, details, and means of performing the Services and may at its own cost, employ such employees as it deems necessary to perform the Services. Authority may not control, direct or supervise Consultant’s employees, in the performance of the Services, and Authority shall not be liable for any expenses or costs relating to Consultant’s employees unless Authority has agreed in writing, prior to the time such expenses or costs are incurred, to reimburse Consultant for such expenses. .

#### **ARTICLE 4: INDEPENDENT CONTRACTOR STATUS**

- a. **Status as Independent Contractor.** Consultant will act as an independent contractor of the Authority in the performance of the Services under the Agreement. Consultant will be responsible for the payment of all applicable federal, state, and local taxes arising out of or related to Consultant’s Services for the Authority. Consultant further agrees to defend, indemnify, and hold the Authority harmless as to any claims or causes of action related to the payment of any federal, state, and local taxes for which Consultant is responsible. Nothing contained in the Agreement shall constitute or be deemed to create between the Authority and Consultant the relationship of employer/employee, it being expressly understood and agreed that the only relationship between Consultant and Authority created herein shall be that of an independent contractor. Without limiting the foregoing, Consultant is not entitled to any rights or benefits afforded to Authority’s employees, if any, including disability or unemployment insurance, workers compensation, medical or life insurance, vacation, holidays, personal leave or any other employment benefit that Authority may provide to its employees from time to time.
- b. **Subcontracting.** Consultant shall not employ or retain independent consultants, associates, or subcontractors to assist in the performance of Consultant’s duties.



## **ARTICLE 5: INDEMNITY**

- a. **Consultant Indemnification.** Consultant shall indemnify and hold the Authority and its members, and each of their officers, directors, employees, agents, officials, representatives, affiliates, subsidiaries, predecessors, successors, and assigns (collectively, “**Indemnitees**”), from and against any and all claims, demands, liabilities, damages, losses, liens, obligations, costs and expenses, including without limitation reasonable attorneys' fees and expenses (“**Claims**”) to the extent arising out of or related to acts or omissions of the Consultant, its employees, agents or representatives in performing the Services. Consultant’s liability under this **Article 5** is limited to the amounts recovered from the insurance that is provided for in **Article 6**.
- b. **Authority Indemnification.** Authority shall indemnify and hold Consultant and its officers, directors, employees and agents harmless from and against any Claims to the extent arising out of related to acts or omissions of the Authority in performing its obligations as provided under the Agreement.
- c. **Limitation on Damages.** In no event shall either Party be liable to the other Party for the payment of any consequential (including lost profits), punitive or exemplary damages.

## **ARTICLE 6: INSURANCE**

- a. All insurance shall be maintained with insurance carriers licensed and approved to do business in California, having a general policyholders rating of not less than an A and financial rating of not less than VII in the most current A.M. Best’s Key Rating Guide.
- b. Consultant shall maintain the following insurance:
  - i. **Commercial General Liability (CGL) Insurance.** Commercial General Liability Insurance is waived for this Agreement based on the Consultant’s very limited CGL exposure consistent with the Services, which require no field site visits and limited off site visits and travel. This waiver of CGL insurance does not waive Consultant’s liability for bodily injury or property damage arising out of the Services.
  - ii. **Professional Liability Insurance.** If Authority determines in its reasonable discretion and consistent with industry standards that Consultant should obtain and maintain professional liability insurance, then Consultant shall so obtain and maintain a \$1,000,000 per occurrence or claim and \$2,000,000 annual aggregate limit professional liability insurance policy, with prior acts coverage sufficient to cover the services performed under the Agreement.
  - iii. **Automobile Liability Insurance.** Consultant shall maintain, as applicable, owned, and/or hired and non-owned Automobile Liability Insurance covering all use of all automobiles, trucks and other motor vehicles utilized by Consultant in connection with the Agreement, with a limit for property damage and bodily injury of \$1,000,000 per occurrence and \$1,000,000 general aggregate limit, or limit carried, whichever is



greater.

- iv. **Workers Compensation Insurance.** When applicable, Consultant shall maintain Workers Compensation Insurance, including Employer's Liability, at a minimum limit acceptable to the Parties for all persons whom Consultant may employ in performing the Services. Such insurance shall be in strict accordance with the requirements of the most current and applicable Workers Compensation Insurance Laws in effect from time to time. Consultant shall furnish to Authority confirmation of Consultant's experience modification rate, which the Authority may request from time to time.
- v. **Specialty Insurance.** Authority may from time to time require additional coverage not specifically identified herein as the Authority determines is necessary or appropriate based on the nature of the Services. Such coverage could include, for example, aircraft liability coverage, pollution liability coverage, and marine liability coverage, in such amounts as the Authority may require in its reasonable discretion.
- c. **Evidence of Insurance.** As evidence of specified insurance coverage, Consultant shall deliver to Authority's Contract Administrator insurance industry standard ACORD form or equivalent certificates and endorsements issued by Consultant's insurance carrier applicable to Authority showing such policies in force for the specified period. Such evidence shall be delivered to Authority on or before the Effective Date. Each policy and certificate shall be subject to reasonable approval by Authority and shall provide that such policy shall not be subject to cancellation without 30 days notice in writing to be delivered by certified mail to Authority at the address set forth in **Article 11.j**. Should any policy expire or be canceled before the expiration of the Term, or such later date as necessary pursuant to a Contractor's post-Term obligations to Authority, and Consultant fails immediately to procure other insurance as specified, Authority reserves the right, but shall have no obligation, to procure such insurance and to deduct the cost thereof from any sum due Consultant under the Agreement.
- d. All such policies specified in the **Article 6** shall, as applicable, contain or be endorsed with the provision that coverage shall not be cancelled by the insurance company in coverage without thirty (30) days prior written notice to the Authority.
- e. Consultant may request in writing to Authority that Authority waive insurance requirements or liability amounts set forth herein. Authority may grant or deny any such requests in its sole discretion.
- f. Authority, and its directors, officers, and authorized agents shall be added as an additional insured by additional insured coverage endorsements CG 2010 04 13 and CG 2037 04 13, or equivalent additional insured coverage endorsements, on Coverages specified in **Articles 6.b.ii, 6.b.iii, and 6.b.v**.

## **ARTICLE 7: CONFIDENTIALITY AND PROPRIETARY INFORMATION**

- a. Consultant acknowledge that notwithstanding Authority's status as a governmental entity, Authority may nevertheless be authorized from time to time under Applicable Laws to assert privilege and/or claims of confidentiality to select information exchanged between the Parties or

produced in connection with or as a result of the Agreement (“**Confidential Information**”). Consultant agrees to abide by the confidentiality terms of the Agreement and acknowledges that they are designed to protect Authority’s and the public’s vital interests. Consultant further acknowledges that Authority will treat any violation of the confidentiality terms of the Agreement as a matter of the highest importance, and will vigorously pursue any and all legal and equitable rights and remedies to protect its interest hereunder. This could include a civil action leading to money damages and/or criminal prosecution against Consultant. Consultant’s confidentiality obligations shall survive expiration or earlier termination of the Agreement.

- b. The product of all Services performed under this Agreement (for purposes of this **Article 7**, the “**Work**”), including without limitation all notes, reports, documentation, work-in-progress and deliverables and other documents prepared by Consultant or any of its agents, employees, representatives in the performance of the Services or otherwise prepared for Authority under this Agreement shall be a “work made for hire” and from its inception shall irrevocably become and remain the sole property of the Authority. If any Work is deemed for any reason not to be a work made for hire, Consultant hereby assigns all right, title and interest in the copyright or other ownership claim in the Work, and all extensions and renewals thereof, to Authority, and agrees to provide all assistance reasonably requested by Authority in the establishment, preservation and enforcement of its copyright or other ownership claim in the Work. Consultant retains no right to use the Work and agrees not to challenge the validity of the Authority’s ownership in the Work. All Work and any Confidential Information shall be conspicuously marked “DRAFT” or “PRIVILEGED AND CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION AND/OR ATTORNEY WORK PRODUCT”, or “INTERNAL DELIBERATIVE PROCESS DOCUMENTS”, as applicable, unless requested to do otherwise by Authority. In addition to the rights granted under this **Article 7.b**, the Consultant shall maintain all rights, title and interest in Consultant Property. The term “Consultant Property” shall mean all pre-existing material, including, but not limited to, any products, software, materials and methodologies proprietary to Consultant or provided by Consultant or its suppliers and any derivative works, trade secrets, know-how, methodologies and processes related to Consultant’s products or services, all of which shall remain the sole and exclusive property of Consultant or its suppliers. Subject to the terms of the Agreement, Consultant grants to Authority a non-exclusive, non-transferable, irrevocable license to use the Consultant Property contained in the deliverables provided hereunder for the purposes of the Agreement.
- c. Consultant agrees that, upon termination of the Agreement with Authority, voluntary or otherwise, Consultant shall return all Authority property, including all Confidential Information, including all copies thereof, then in its or its employees’ possession or control; provided, however, that Consultant may retain one electronic copy of information the Consultant relied upon to perform the Services, which copy shall remain subject to the terms and conditions of **Article 7.a**.
- d. The foregoing notwithstanding, neither party shall be liable for disclosure or use of Confidential Information which: (1) is disclosed with the prior written approval of the disclosing party; or (2) is required by applicable law or court or regulatory order to be disclosed.



## **ARTICLE 8: FORCE MAJEURE**

- a. Neither Party to this Agreement shall be liable for its failure to perform its obligations hereunder due to events beyond its reasonable control, including, but not limited to, strikes, riots, wars, fire, earthquakes, acts of God and/or unusual acts of nature, acts in compliance with any law, regulation or order (whether valid or invalid) of the United States of America or any state thereof or any other domestic or foreign governmental body or instrument thereof having jurisdiction in the matter. Delay occasioned thereby shall not be considered a breach of this Agreement.

## **ARTICLE 9: COMPENSATION**

- a. **Compensation.** Authority shall pay Consultant compensation for the Services as follows:
  - i. **Services Per Budget.** Consultant's total compensation for the Services of this Agreement ("**Budget**") is provided in Exhibit B, which outlines amounts allocated by task.
  - ii. **Services Exceeding Budget.** Consultant shall not perform the Services in excess of the Budget or the amount allocated for each individual task identified in this Agreement without the prior written approval of the Authority's Contract Administrator, as reflected in an Amendment. Consultant shall not be entitled to compensation in excess of the Budget, as might be amended from time to time in the Authority's reasonable discretion.
  - i. **Fees Paid by Authority.** Except as specifically provided in this Agreement, Authority shall pay the cost of charges not specifically covered by the terms of the Agreement which are required to use or apply, but not perform or produce, the Services or work product.
  - ii. **Rates.** The hourly rates ("**Rates**") shall remain in effect for twelve months from the Effective Date, or until such later date as the Services are completed ("**Rate Change Date**"). After the Rate Change Date, Consultant shall not increase the Rates without at least 30 days written notice from Consultant to Authority, and there must be at least twelve months between increases in the Rates. If the Authority approves the Rates increase, the new Rates shall apply only to that portion of Services remaining to be completed after the Rate Change Date.
- b. **Application for Payments.**
  - i. **Progress Payments.** Consultant shall submit progress payments to the Authority that include an invoice for the expenses of the reporting period. Each invoice shall be submitted electronically to [invoices@sitesproject.org](mailto:invoices@sitesproject.org). Authority shall pay the amount requested and not disputed by Authority no later than thirty (30) days following Authority's receipt of the Application for Payment. An Application for Payment



without proper supporting documentation is subject to delays or non-payment until the Authority receives proper supporting documentation.

Reimbursable expenses include both in-house and outside third-party expenses associated with printing, photography, production, mailing, delivery services, travel and mileage. Such expenses shall be billed at actual cost, with no overhead or profit factor. For all reimbursable expenses, invoices must include supporting documentation with descriptive information so that such expenses are separately identified.

- ii. **Progress Reporting.** Progress reporting requirements are described in Exhibit B. If requested by the Authority, Consultant may be required to provide task and subtask level details of the principle accomplishments, including, without limitation, task progress figures and descriptions, cost and staff hour forecasts, scheduled activity status updates, and an explanation of future work. Preliminary cost data may be provided by Consultant with an update made at the time of invoicing. The reasonable cost to prepare said descriptions shall be a reimbursable to Consultant.
- iii. **Final Payment.** In addition to other deliverables due in connection with termination or expiration of the Agreement pursuant to **Article 2**, Consultant shall deliver and assign to Authority, prior to receiving final payment for the performance of the Services, originals or, if not available, copies of any and all data, reports and other work product relating to the Services, all such work product being a “work made for hire” or its alternative as provided in **Article 7**. The acceptance by Consultant of final payment shall constitute a full and complete release of Authority from any and all claims, demands and causes of action whatsoever which Consultant, including Consultant’s successors or assigns, has or may have against Authority under the Agreement. However, except for Consultant’s obligation to continue to render the Services, the making of such final payment shall not be deemed to be a release of Consultant from Consultant’s obligations or liabilities under the Agreement. Consultant’s other obligations and liabilities, including without limitation, the obligations set forth in **Articles 5 and 7**, shall survive final payment as well as the expiration or earlier termination of the Agreement.



## **ARTICLE 10: DISPUTE RESOLUTION**

- a. **Meet and Confer.** The Parties agree to undertake good faith efforts to resolve any dispute arising under or in connection with the Agreement within sixty (60) days of such disputed item arising prior to resorting to formal means of dispute resolution. If any dispute is not capable of resolution by and among the representatives of each Party authorized to administer the Agreement, Consultant's principal and the Authority's board chair or his/her authorized representative (who shall be the Executive Director of the Authority or a member of the Authority Board) shall meet and confer in an effort to resolve any such dispute. If such efforts between Consultant's principal and the Authority's designee do not result in resolution of the dispute within thirty (30) days of their commencement, the Parties shall have such other remedies available to them as are provided for in the Agreement or as otherwise exist at law or in equity. No other means of dispute resolution, including arbitration and litigation, shall be available to the Parties unless they have exhausted the process provided for in this **Article 10.a.**
- b. **Mediation.** After efforts in **Article 10.a** are exhausted, the Parties may agree to resolve the dispute with the help of a mutually agreed-upon mediator. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the Parties. If it proves impossible to arrive at a mutually satisfactory solution through mediation, the Parties agree to submit the dispute to a mutually agreed-upon arbitrator. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator. The arbitrator's decision shall be final and binding on both Parties. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

## **ARTICLE 11: MISCELLANEOUS**

- a. **Governing Law.** The Agreement shall be governed by the laws of the State of California. Any action instituted under the Agreement shall be brought only in the Colusa County, California, Superior Court.
- b. **Amendment.** The Agreement shall not be amended except by written agreement signed by both Parties.
- c. **Successor and Assigns.** The Agreement and the covenants and conditions contained herein shall apply and be binding upon and inure to the benefit of the permitted administrators, executors, legal representatives, assignees, successors, agents and heirs of each Party hereto.
- d. **Assignments.** The Agreement is not assignable by Consultant without the consent of the Authority, which consent the Authority may grant or withhold for any or no reason in its sole discretion. Any such purported assignment without prior written consent by the Authority shall be null and void. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge either Party from any obligation under the Agreement.





- e. **No Third-Party Beneficiaries.** Except for rights of indemnitees specifically referenced in the Agreement, no provision of the Agreement is intended to create or grant claims or rights of action against Authority for the benefit of any third parties.
- f. **Integration.** The Agreement is intended to be the final, complete, and exclusive statement of the terms of Consultant's terms of service to the Authority. The Agreement supersedes all other prior or contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the Services of Consultant to the Authority, and it may not be contradicted by evidence or any prior or contemporaneous statements or agreements. To the extent the practices, policies, or procedures of the Authority, now or in the future, apply to Consultant and are inconsistent with the terms of the Agreement, the provisions of the Agreement shall control.
- g. **Waiver.** A waiver by either the Authority or Consultant of any breach of the Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.
- h. **Severability.** If any provision of the Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall be and remain valid, binding and enforceable to the fullest extent permitted by law.
- i. **Counterparts.** The Agreement may be executed in one or more counterparts, all of which together shall constitute one and the same instrument.
- j. **Notices.** All notices, requests, demands and other communications under the Agreement shall be in writing and shall be deemed duly given **(i)** if delivered by hand and actually received by the Party addressee, on the date of such receipt, or **(ii)** if mailed by domestic certified or registered mail, postage prepaid, on the third business day after the date postmarked or **(iii)** if sent by overnight courier of recognized standing, on the date of such receipt. The foregoing notwithstanding, the Parties agree that day-to-day communications concerning routine matters under the Agreement should be communicated electronically using such e-mail addresses as the Parties may provide to one another from time to time. Addresses for notice to the Parties are as shown below, or as subsequently modified by written notice given pursuant to this **Article 11.j.**



Authority's Contract Administrator:

Sites Project Authority  
Attn: Shayleen O'Connell  
Finance Manager  
P.O. Box 517 (if by USPS)  
122 Old Hwy 99W (if by courier)  
Maxwell, CA 95955  
Telephone: 530-632-4686  
Email: soconnell@sitesproject.org

Consultant's Representative:

Attn: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

- k. **Representation by Attorney.** The Parties expressly represent and warrant that they have had the opportunity to receive, and/or have received independent legal advice from their respective attorneys with respect to the advisability and effect of entering into the Agreement.
- l. **Attorney's Fees.** In the event of litigation for breach of the Agreement, or arising out of or related to the Agreement, the prevailing party shall be entitled to reasonable attorney's fees, expert fees, and costs incurred.
- m. **Captions.** Any paragraph captions are for reference only and shall not be considered in construing the Agreement.
- n. **Electronic Communications.** During the course of the Agreement, communications may occur through sending, receiving or exchanging electronic versions of documents and e-mails using commercially available computer software and Internet access. Contractor and the Authority acknowledge that the Internet is routinely victimized by the creation and dissemination of so-called viruses, or similar destructive electronic programs. Contractor and Authority view the issues raised by these viruses seriously and each has invested in commercially available document and e-mail scanning software that identifies and rejects files containing known viruses. Contractor agrees to update its system with its software vendor's most current releases at regular intervals. Because of the virus scanning software, the respective computer systems of the Parties may occasionally reject a communication. The Parties acknowledge that this occurrence is to be expected as part of the ordinary course of business. Because the virus protection industry is generally one or two steps behind new viruses, neither Party can guarantee that its respective communications and documents will be



virus free. Occasionally, a virus will escape and go undetected as it is passed from system to system. Although each Party will use commercially reasonable efforts to assure that its communications are virus free, neither Party warrants that its documents will be virus free. Each Party agrees to advise the other if it discovers a virus in its system that may have been communicated to the other Party.

- o. **No Partnership.** The provisions of the Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any other similar arrangement between the parties to the Agreement. Consultant’s only relationship with Authority is that of an independent contractor.
- p. **Further Assurances.** The Parties shall execute such further documents and take such further actions as may be necessary to fully perform under the Agreement.
- q. **Remedies.** Any remedies reserved to the Parties in the Agreement shall not be exclusive remedies.
- r. **Covenant Against Contingent Fees.** Consultant agrees that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure the Agreement, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of the Agreement. In the event of a breach or violation of this covenant, Authority shall have the right to terminate the Agreement pursuant to **Article 2**, or, in its discretion, to deduct from Consultant’s compensation, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.
- s. **Entire Agreement.** The Agreement, including this Addendum, together with any Exhibits, SOQ or RFQ, RFP or Proposal, represents and contains the entire agreement and understanding between the Parties relating to the Services, and all previous statements or understandings, whether express or implied, oral or written, relating to those subject matters are fully and completely extinguished and superseded by the Agreement.
- t. **Authority to Enter.** The Parties each warrant and represent that they each have the authority to execute this Addendum, and that the signatories below are authorized to sign this Addendum on behalf of the Parties.

**CONSULTANT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AUTHORITY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_